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**Response to Planning Authority submission of further additional information relative
to Notice of Review 21/0005/LRB
Argyll and Bute Council – Local Review Body**

Appellant: Michael & Rowan Acey

Project Ref: 2020034

Development: Refusal of planning application 20/01542/PP:
Erection of 2 holiday pods and installation of septic tank

Site: Grounds of Soroba Lodge, Oban, PA34 4SB

Scale: Local development

Response

Thank you for the opportunity to respond to the Planning Authority's provision of additional information submitted on 07/03/22 relative to Notice of Review 21/0005/LRB.

The Local Review Body sought information from the Planning Authority on two specific points, within a framework of exploring options for a competent motion:

- 1) A summary of legal advice that the Planning Authority had received relative to a similar proposal referenced in their earlier submissions.
- 2) Suggested planning conditions and reasons in the event that Members of the LRB wished to approve the application.

Although we are not aware of the specific details of the other case referenced by planning officers and therefore cannot comment on its degree of relevance, we are grateful for sight of a summary of the legal opinion provided by Brodies LLP on that case.

We are heartened to read Brodies LLP confirmation that a planning condition covering B&B usage within an existing house would be legally competent, and further, that a Section 75 legal agreement provides an alternative mechanism by which B&B activity can be controlled.

We note the caveats highlighted by planning officers, regarding potential difficulties in enforcing any such planning condition or legal agreement, but assert that such concerns are not insurmountable. Numerous planning conditions applying to a range of development types present challenges for monitoring and enforcement, but that does not prevent them from being applied, nor should it preclude a Planning Authority from approving developments that are fundamentally acceptable.

In this case, the whole driver behind the project is to provide self-contained accommodation that will provide B&B guests and the applicants (plus their young daughter) high levels of privacy. Any B&B guest accommodation at the site will be ancillary to the appellants' demanding full time roles as primary school teacher and bespoke furniture designer/local employer. The appellants simply do not have the time or aspiration to run a larger scale tourism operation than two bedrooms. Relocating that B&B activity from the house to the new garden units will be entirely self-regulating, providing a relief from the rigours of sharing a family home with B&B guests.

Further, in the event that the Planning Authority wished to monitor future B&B activity, it would be a simple matter of searching mainstream accommodation websites to verify what accommodation is being advertised for guest occupancy – as per the most widespread and resource efficient method generally employed by planning authorities for this purpose.

We ask that the LRB accepts this proposal as one which will improve on existing tourism accommodation provision in a way that will not generate additional traffic.

In the context of the previously highlighted 2007 Elderslie decision - whereby a more substantial increase in vehicular demand was considered by the Planning Authority as not

representing a material intensification of use of the same shared access - we reassert that it is competent for the planning authority to conclude similarly in this case.

If additional safeguards are considered necessary to assuage concerns regarding the existing access, we reoffer our previous undertakings to accept planning conditions verifying the development as a quid-pro-quo swap of two double bedrooms of guest accommodation within Soroba Lodge for two double bedrooms of guest accommodation within the garden grounds of Soroba Lodge.

Turning to the recommended planning conditions, we have some residual concerns and must request the following:

Planning conditions 3, 4 and 5 suggested by the Planning Authority continue to be founded on the belief or assumption that additional traffic will be generated by this proposal. The result of granting planning permission with three conditions referring to upgrading of the existing access would be equivalent to the refusal we already have – it would entirely miss the point that our proposal will not generate additional traffic. We respectfully ask that planning conditions 3, 4 and 5 as suggested by planning officers are not attached to any consent that may be issued.

Our position on the access and traffic considerations, including our proposals to effectively control this, is central to our appeal and is summarised above. If Members accept our arguments and wish to approve the application, we do accordingly request that the alternative planning conditions listed overleaf are attached.



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Stephen Fair MRTPI MURP
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16 March 2022

Continued overleaf..../

Alternative suggested planning conditions (2 pages):

1. *The development shall be implemented in accordance with the details specified on the application form dated **31/08/20**; supporting information and, the approved drawings listed in the table below unless the prior written approval of the Planning Authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.*

Plan Title.	Plan Ref. No.	Version	Date Received
<i>Site and Location Plans</i>	<i>101</i>		<i>01/09/20</i>
<i>Site Plan Showing Aerial Image</i>	<i>102</i>		<i>01/09/20</i>
<i>Proposed Holiday Pod No. 1 – Plans, Sections & Elevations</i>	<i>103a</i>		<i>01/09/20</i>
<i>Proposed Holiday Pod No. 2 – Plans, Sections & Elevations</i>	<i>104a</i>		<i>01/09/20</i>
<i>Supporting Statement (7 Pages)</i>			<i>01/09/20</i>

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

Note to Applicant:

- This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]*
- In order to comply with Sections 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.*
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.*

Both the Notification of Initiation and Notification of Completion forms referred to above are available via the following link on the Council's website:

<https://www.argyll-bute.gov.uk/planning-and-environment/make-planning-application>

2. *Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended the residential accommodation hereby approved shall be used for short term holiday occupancy only and not as a main residence and shall not be occupied by any family, group or individual for a cumulative period of more than three calendar months in any one year. A register showing dates of arrivals and departures shall be maintained at the premises and shall be available at all reasonable times for inspection by the Planning Authority.*

Reason: In order to define the permitted occupancy having regard to the fact that the premises are unsuitable for occupation as a permanent dwelling due to their size and construction, and having regard to the relevant provisions of the Development Plan.

Note to Applicant:

For the avoidance of doubt this permission only provides for the occupation of the premises on a short term basis on the grounds that the development is unsuited to full time residential occupation. Specifically the occupation of the premises as a dwellinghouse or dwellinghouses shall require the benefit of a separate planning permission.

3. *Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 as amended, from the date of the first occupation of either holiday unit hereby approved there shall be no bed and breakfast accommodation within the existing house whatsoever - unless first otherwise agreed in writing by the Planning Authority.*

Reason – to ensure that vehicle numbers do not increase from their existing levels, in the interests of road safety.

4. *Notwithstanding the provisions of Condition 1, the development shall incorporate a surface water drainage system which is consistent with the principles of sustainable urban drainage systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual C753. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.*

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

5. *No development shall commence or is hereby authorised until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Planning Authority. The CMS shall include a full description of material delivery methods, construction vehicle size, vehicle numbers and vehicle weights proposed for use during construction phases, as well as defined hours during which all construction vehicle movements will be confined having regard to the nearby primary school campus term time opening hours. Thereafter, the development shall only be undertaken in strict accordance with such details as are approved.*

Reason: In the interests of road and pedestrian safety.